hold, therefore, that he was properly convicted on the first charge.

If my interpretation of section 37(d) of the Ordinance is not correct, the conviction on the first charge can be supported without having recourse to the presumption under section 37(d). The fact that the appellant was seen attempting to take the confectionery tin and its contents out of the attic as soon as the detectives entered the attic raises the inference that the appellant was endeavouring to put the tin and its contents out of sight and the further inference that he had knowledge of the nature of the contents of the tin. As the opium pipe-head and the chandu and chandu dross were found in the attic it must be presumed, until the contrary is proved, under section 37(c) of the Dangerous Drugs Ordinance that the attic was used for the purpose of smoking of chandu by a human being and that the occupier permitted the attic to be used for such purpose. The appellant was not the occupier of the premises but a friend of the occupier. Nevertheless the presumption under section 37(c) makes both the inferences irresistible. As the contents of the confectionery tin were in the appellant's actual physical control, and as the circumstances justified the inference that the appellant intended to exercise control over them for his own purposes, he was, in my opinion, rightly found to be in possession of the chandu and chandu dross.

As regards the charge of possession of smoking utensils the presumption under section 37(d) of the Ordinance does not apply. For the reasons given in the last paragraph, however, the appellant was in my opinion rightly convicted on the second charge.

I found no substance in the other grounds of appeal and, therefore, dismiss the appeal.

Appeal dismissed.

KHATIJABAI JIWA HASHIM v. ZENAB d/o CHANDU NANSI, EXECUTRIX OF HAJI G. H. HARJI

[J.C. (Lord Tucker, Lord Cohen and Mr. L.M.D. de Silva) November 5, 1958]

Privy Council — Practice — Appeal — Withdrawal of appearance — Judicial Committee Rules, 1925 and 1957.

There is no express provision for the withdrawal of appearance contained in the Judicial Committee Rules, 1925 and 1957.

PETITION.

On December 7, 1957, the Court of Appeal for Eastern Africa granted to the petitioner, leave to appeal to Her Majesty in Council from a judgment of that Court dated March 29, 1956, ordering that a contract whereby the petitioner (who was the defendant) had agreed to sell certain land at Nairobi should be specifically performed. On December 19, 1957, the petitioner, by the solicitors then acting for her and on her behalf, entered an appearance in the appeal at the Privy Council Office, pursuant to r. 21 of the Judicial Committee Rules, 1925. On March 14, 1958, after correspondence between the solicitors and the petitioner, the solicitors withdrew the appearance. The petitioner instructed new solicitors, but the petition stated that they in fact took no further steps in the appeal, and, in particular, did not take any of the steps prescribed in r. 86, namely, to give notice in writing of the change of agents to the Registrar and to the outgoing agents, and to amend the appearance accordingly. By letter of April 16, 1958, the Registrar informed the Registrar of the Court of Appeal for Eastern Africa that the petitioner's appeal had been dismissed for want of prosecution under and by virtue of r. 34. The petitioner applied for leave to restore the appeal but her petition was dismissed on July 16, 1958. The petitioner now sought an order that her appeal was still pending.

[**Editorial Note:** the relevant rules at this time were the Judicial Committee Rules, 1957; the numbers of rr. 34 and 86 are the same in those of 1925 and those of 1957.]

D. N. Pritt, Q.C., and *A. R. Campbell* for the petitioner.

Dingle Foot, Q.C., and *T. O. Kellock* for the respondent.

Lord Tucker, after their Lordships had consulted, said that they would humbly advise Her Majesty that this petition be allowed, and that an order be made as prayed in the petition declaring that "notwithstanding the order made as aforesaid on July 16, 1958, dismissing your petitioner's application for leave to restore, and notwithstanding all or any other matters or steps that may have occurred or been taken, the appearance entered by [the original solicitors] on December 19, 1957, still stands as an effective appearance, and that this appeal is still pending." Their Lordships also ordered that the period prescribed by rule 22 should be extended until 10 days from the date of Her Majesty's order herein, and that there should be no order as to the costs of this petition.

Petition allowed.

Solicitors: *Theodore Goddard & Co.; Herbert Oppenheimer, Nathan & Vandyk.*